

1 GLYNN & FINLEY, LLP  
 CLEMENT L. GLYNN, Bar No. 57117  
 2 ADAM FRIEDENBERG, Bar No. 205778  
 One Walnut Creek Center  
 3 100 Pringle Avenue, Suite 500  
 Walnut Creek, CA 94596  
 4 Telephone: (925) 210-2800  
 Facsimile: (925) 945-1975  
 5 Email: [cglynn@glynnfinley.com](mailto:cglynn@glynnfinley.com)  
[afriedenberg@glynnfinley.com](mailto:afriedenberg@glynnfinley.com)  
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 Attorneys for Defendant and Counter-Plaintiff  
 7 ConocoPhillips Company

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 9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA

11	HOUTAN PETROLEUM, INC.	)	Case No. 3:07-cv-5627 SC
12	Plaintiff,	)	
13	vs.	)	<b><u>CONOCOPHILLIPS COMPANY'S</u></b>
14	CONOCOPHILLIPS COMPANY, a Texas	)	<b><u>MOTION IN LIMINE NO. 5</u></b>
15	corporation and DOES 1 through 10,	)	
16	Inclusive	)	<b><u>RE: EXCLUSION OF REFERENCES TO</u></b>
17	Defendants.	)	<b><u>OR EVIDENCE OF SIZE, PROFITS OR</u></b>
18		)	<b><u>WEALTH OF CONOCOPHILLIPS</u></b>
19		)	<b><u>COMPANY</u></b>
20		)	<b>Pretrial Conference: February 6, 2008</b>
21		)	<b>Time: 10:00 a.m.</b>
22		)	<b>Courtroom: 1</b>
23		)	<b>Before: Hon. Samuel Conti</b>
24		)	<b>Trial Date: February 11, 2008</b>

20 Defendant and Counter-Plaintiff ConocoPhillips Company ("ConocoPhillips") hereby  
 21 moves in limine for an order excluding presentation to the jury of any evidence of the size,  
 22 profits and wealth of any ConocoPhillips defendant, affiliate, officer or principal.

23 **I. ARGUMENT**

24 ConocoPhillips is an international company. It is the third-largest integrated energy  
 25 company in the United States, based on market capitalization and oil and natural gas proved  
 26 reserves and production; and the second-largest refiner in the United States. ConocoPhillips  
 27 operates in more than 40 countries and has 38,400 employees worldwide and assets of \$165  
 28 billion. Houtan Petroleum, Inc., on the other hand, is a much smaller, local business.

1 Evidence of a party's wealth is irrelevant to the issue of liability. "It has been widely  
2 held by the courts that have considered the problem that the financial standing of the defendant is  
3 inadmissible as evidence in determining the amount of compensatory damages to be awarded."  
4 *Geddes v. United Financial Group* (9th Cir. 1977) 559 F.2d 557, 560. Such evidence "injects  
5 into the damage determination a foreign, diverting and distracting issue which may effectuate a  
6 prejudicial result." *Id.*

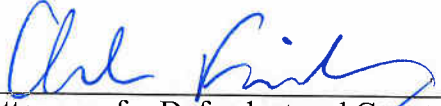
7 Moreover, the PMPA explicitly provides that a claim for punitive damages under the  
8 PMPA is determined by the Court, not a jury. 15 U.S.C. § 2805(d)(2). Thus, in the event any  
9 portion of the case is tried to a jury, it would be improper to discuss ConocoPhillips' size,  
10 profits, or wealth in the presence of the jury. Such information is highly prejudicial and has no  
11 probative value to any issue to be determined by the jury.

12 **II. CONCLUSION**

13 For the above reasons, ConocoPhillips respectfully requests that the Court issue an order  
14 prohibiting any reference to the size, profits or wealth of any ConocoPhillips defendant, affiliate,  
15 officer or principal in the presence of the jury, if any.

16 Dated: January 29, 2008

17 GLYNN & FINLEY, LLP  
18 CLEMENT L. GLYNN  
19 ADAM FRIEDENBERG  
One Walnut Creek Center  
100 Pringle Avenue, Suite 500  
Walnut Creek, CA 94596

20  
21 By   
22 Attorneys for Defendant and Counter-  
23 Plaintiff ConocoPhillips Company  
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